

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2074 of 1987

with

SPECIAL CIVIL APPLICATION No 1558 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

KALUSING N RATHOD

Versus

PROJECT OFFICER

Appearance:

1. Special Civil Application No. 2074 of 1987
MR GM AMIN for Petitioners
NOTICE UNSERVED for Respondent No. 1
MR HASMUKH C. PATEL for Respondent No. 2
2. Special Civil Application No 1558 of 1988
MR GM AMIN for Petitioners
NOTICE UNSERVED for Respondent No. 1
MR HASMUKH C. PATEL for Respondent No. 2

CORAM : MR.JUSTICE S.D.DAVE

Date of decision: 02/07/1999

ORAL JUDGEMENT

Present orders shall govern the disposal of these two petitions.

Special Civil Application No. 1588 of 1988 has been filed by a petitioner, namely Shri. Popatlji Madhaji Rathod, while the other petition has been taken out by eleven petitioners. The case of the petitioners appears to be that, they used to work at the relevant time in the department of Animal Husbandry and that, despite their long span of service, they were continued as Rojamdars and their services have not been regularised. Their case is also that, they had a valid apprehension that the services of all the petitioners or some of them could be terminated at any time. This is the precise case with which the petitioners had approached this Court in year 1987 and 1988.

Ld. counsel Ms. Panchal who appears for Ld. counsel Mr. G.M. Amin for the petitioners says that, at present the petitioners have been continued in the work as the Nandi Sevaks or the attendants to bulls in the Animal Husbandry department, and therefore there is absolutely no question of they losing their jobs. Any how, according to the Ld. counsel, the petitioners are doing this work since last many years and that, still they have been continued as Rojamdars and their services have not been regularised. Ld. counsel urges that, looking to the long span of their service, petitioners should be regularised. The reliance is also sought to be placed upon a decision in case of GSRTC, Petitioner Vs. Workmen of S.T. Corporation, Respondents, 1999 (1) GLH pg. 760. which says that, if the employment of workmen as Badlis or Temporaries for years is maintained with the object of depriving them of the status of permanent workmen, same would amount to unfair labour practice. The emphasis is also laid by Ld. counsel for the petitioners upon the say of Supreme Court to which a reference has been made in the decision.

The counter contention coming from Ld. Govt. Solicitor is that, now when the petitioners are not apprehending their termination, the petitions should be disposed of. So far as the contention coming from the petitioners regarding regularisation is concerned, Ld. Govt. Solicitor urges that, they are not entitled to the benefit of the decision rendered by the Ld. Single Judge referred to above. Ld. Govt. Solicitor wanted to make

a distinction, on the facts of two cases by urging that the above said decision could be in a case in which there could be the permanent employment or work available to the petitioners, while in the instant case the same may not be the case. This contention does not appeal because here also the petitioners are working in the same capacity since last so many years.

It would therefore be appropriate if the petitioners approach the respondents by making individual representation, placing reliance upon the above said decision of this court and urge for their regularisation. This should be done within a period of three weeks from the date of receipt of the certified copy of these orders. If that is done, the concerned respondents shall decide it properly within a period of eight weeks thereafter, and the outcome thereof shall be communicated to each of the petitioners individually, under registered post A.D. If per chance the outcome of this exercise is adverse to the petitioner, it shall be open for the petitioners to approach this Court once again by taking out appropriate proceedings. These two petitions stand disposed of with these orders. Rule is made absolute accordingly to the above said extent only in both the petitions, with no order as to costs.

/vgn